THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P. NO.378 OF 2007

BETWEEN:

M.Ramesh Babu and others

… petitioners

Vs.

Government of India, rep. By its Deputy Secretary, Ministry of Shipping, Road Transport and Highways, New Delhi and another

…respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P. NO.378 OF 2007

ORAL ORDER

The lands in several survey numbers including

Survey/Division Nos.430C/2F, 440/2B1, 440/2B3, 439D/3F, 439C/2B of Kallur village and Mandal, Kurnool District were notified on 13-10-2005 for widening of National highway No.7 in the stretch 203.00 km to Km 293 in the Hyderabad – Bangalore Section. Except describing the land as private land and indicating small extents in each of the Survey/Division numbers, no other particulars or description of the persons interested in the land of the owners has been furnished in the notification issued under Section.3-A of the National Highways Act,1956 (for short "the Act").

The petitioners claim to be owners of shops in Kurnool District and specifically allege that each of these survey/division numbers comprise larges extents of land of which only small extents were notified for acquisition and therefore for lack of particularity they could not lodge objections within 21 days from the date of notification as required under Sec.3C of the Act.

Thereafter the 1st respondent issued the notification S.O.1732 (E) dated.09-10-2006 under Section.3D (1) and (2) of the Act, which corresponds to Sec.6 of the Land Acquisition Act, 1894, notifying concrete proposals for acquisition of these lands. Pursuant to the above notification, the 2nd respondent issued a notification on 24-11-2006 published in the local Telugu daily dated.01-11-2006 calling upon interested persons to appear on 04-12-2006 along with the documents in respect of their ownership, towards an award enquiry. At that stage the petitioners having noticed their names in the 2nd respondent's notification dated.24-11-2006 published on 01-11-2006, lodged their objections to the Sec.3-A notification dated.17-10-2005 issued by the 1st respondent. There being no response and complaining that the respondents

are relentlessly pursuing the process of acquisition without considering their objections, the writ petition is filed.

Sec.3A(2) of the Act ordains that every notification under sub-section(1) shall give a brief description of the land and that the competent authority shall cause the substance of the notification to be published in two local newspapers, one of which will be in a vernacular language. Sec.3C enables persons interested to lodge objections to the acquisition proposals within 21 days from the date of publication of the notification under sub-section(1) of Section 3A. This right to lodge objections to the acquisition, statutorily conferred becomes meaningful and effective only when a person interested is in a position to learn from the notification under sub-section(1) of Section 3A that his land is proposed to be acquired. A notification under sub-section(1) of Section 3A which is skeletal to a degree which denies a person interested information as to the fact of acquisition of his property would be a notification which is inconsistent with the scheme and tenor of the Act in particular on the interactive analysis of Sec.3A and 3C. As has been held by several Courts including the Apex court with regard to the principles of interpretation of provisions of sec.5-A of the Land Acquisition Act,1894 the right to lodge objections to the acquisition process, afforded under the Act is not an empty formality, stately but vacuous. It is intended to be a real opportunity and one that is meaningful.

Since the notification date.17-10-2005 does not provide a meaningful opportunity for land owners/persons interested to lodge objections under Sec.3C on account of the brevity of its contents, this Court is inclined to direct the respondents to afford the petitioners an opportunity to lodge their objections.

The notification dated.09-10-2006 in S.O.No.1732(E)

issued by the 1st respondent is accordingly quashed to the extent it notifies the lands in Survey/Division Nos.430C/2F, 440/2B1, 440/2B3, 439D/3F, 439C/2B of Kallur village and Mandal, Kurnool District. The petitioners shall lodge their objections to the acquisition proposals notified by the 1st respondent on 17-10-2005 within two(2) weeks from today. On the petitioners' lodging objections within the aforesaid time, the 1st respondent shall consider the same and pass appropriate orders/issue an appropriate notification under Sec.3D of the Act after communicating to the petitioners the decision taken by the 1st respondent on the objections lodged, by registered post with acknowledgment due.

The writ petition is disposed of as above. In the circumstances there shall be no order as to costs.

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GODA RAGHURAM,J

23RD APRIL 2007

Note:
Issue CC as soon as
Possible.
(B/O)
***TSNR**